

**IN RE: APPEAL OF VICTOR GARCIA
RELATIVE TO A PROPERTY LOCATED
AT 249 SOUTH 12TH STREET, CITY OF
READING, BERKS COUNTY,
PENNSYLVANIA**

**BEFORE THE ZONING HEARING
BOARD OF THE CITY OF READING,
PENNSYLVANIA**

APPEAL NO. 2021-29

**VARIANCE, INTERPRETATION
AND/OR SPECIAL EXCEPTION**

**DECISION OF THE ZONING HEARING
BOARD OF THE CITY OF READING**

AND NOW, this 8th day of December, 2021, a hearing having been held on November 10, 2021, upon the application of Victor Garcia, notice of such hearing having been first sent and advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code and the City of Reading Zoning Ordinance, as amended, the Zoning Hearing Board of the City of Reading (hereinafter referred to as the “Zoning Board”) renders the following decision:

FINDINGS OF FACT

The Zoning Board finds the following facts:

1. Applicant is Victor Garcia, an adult individual residing at 1621 Cotton Street, Reading, Berks County, Pennsylvania 19606 (hereinafter referred to as the “Applicant”).
2. Applicant has a leasehold interest in the property located at 249 South 12th Street, City of Reading, Berks County, Pennsylvania 19602 (hereinafter referred to as the “Subject Property”).
3. The fee simple owner of the Subject Property, Christopher Madara, has granted the Applicant permission to seek the requested relief.
4. The Subject Property is located in the R-3 Zoning District as that term and district is defined by the Zoning Ordinance of the City of Reading, as amended (hereinafter referred to as the “Zoning Ordinance”).
5. The owner of the Subject Property, Christopher Madara, also testified on behalf of the Applicant.
6. Applicant requests zoning relief from Sections 600-406.D.(d)(e) of the Zoning Ordinance

to operate a tattoo parlor in the first floor storefront at the Subject Property.

7. The Subject Property is located on a 2,180 +/- square foot lot which includes an existing multi-family dwelling and a commercial space on the first floor.

8. The Subject Property is a corner lot with road frontage along South 12th Street and Spruce Street and is bounded by residential uses to the north, an improved alley and residential uses to the east, Spruce Street and residential uses to the south, South 12th Street, St. Mary's Roman Catholic Church and residential uses to the west.

9. The Subject Property has a history of nonconforming commercial uses occupying the first floor.

10. The most recent zoning approval on file was in 2013 for a single nail salon that occupied 300 square feet of the first floor.

11. Applicant submitted a Zoning Permit which was denied because the proposed use is not allowed in the R-3 Zoning District and because the proposed use would be more intense than the prior use (Section 600-804.B and 600-607.D.)

12. A zoning enforcement notice was issued to Applicant on June 25, 2021, for the operation of a tattoo parlor without a zoning permit.

13. The previously approved zoning permit (#2013-460) for a single station nail salon located within the storefront of the Subject Property was issued based on a floor plan that depicted a 15' x 20' (300 square foot) area.

14. Mr. Madara stated the original commercial space which is approximately 800 square feet in area had been used since 1907 as a storefront for various commercial uses.

15. Mr. Madara believes there may have been a mathematical error on the 2013 zoning permit.

16. Based on the location of a wall separating the storefront from a storage area in the rear, Mr. Madara believes the space accessible to customers has remained unchanged.

17. Applicant states that no structural changes have been made to the storefront area of the Subject Property and the prior tenant did not accurately reflect the measurements and use area.

18. Applicant's revised floor plan submitted with his application depicts the commercial storefront area to be 462 square feet in area with an additional 392 square foot storage area in the rear.

19. Applicant stated there will be four tattoo stations.

20. Applicant stated all customers will require appointments.

21. Applicant's hours of operation will be from 10:00 a.m. to 6:00 p.m., Monday through Saturday, prevailing time.

22. Applicant presented an agreement with St. Mary's Roman Catholic Church located at 250 S. 12th Street for 3 parking spaces at the rear of the church which will be available for customer parking Monday through Friday from 10:00 a.m. to 6:00 p.m., and on Saturday from 10:00 a.m. to 3:00 p.m., prevailing time.

23. Applicant stated the storefront windows will be open for public view for security purposes.

24. Applicant stated the proposed tattoo parlor will not create undue congestion, noise.

25. There were no objectors to the proposed relief.

DISCUSSION

Applicant seeks a special exception to operate a personal service tattoo parlor in the first floor storefront at the Subject Property. The proposed use is in keeping with the spirit and intent of the Ordinance. Applicant's proposed use will not be a detriment to the health, safety and welfare of the neighborhood.

CONCLUSIONS OF LAW

1. Applicant is Victor Garcia.

2. The Subject Property is located at 249 South 12th Street, City of Reading, Berks County, Pennsylvania 19602

3. The Subject Property is located in the R-3 Zoning District.

4. Applicant seeks zoning relief to operate a tattoo parlor in the first floor storefront at the Subject Property.

5. The Zoning Board is permitted to grant applications for special exceptions and/or

variance(s) and other relief as set forth in the Zoning Ordinance.

6. In order to grant the relief, Applicant must show he has satisfied the relevant sections of the Zoning Ordinance.

7. After reviewing Applicant's request in detail, the Zoning Hearing Board enters the following Decision:

a. Applicant is granted relief to operate a personal service tattoo parlor in the first floor storefront at the Subject Property.

b. Applicant shall not allow video machines, soda machines, vending machines, jukeboxes, and ATM machines at or on the Subject Property.

c. Applicant shall comply with all pertinent provisions that pertain to the expansion of a nonconforming use as specified under Section 600-607.D of the Zoning Ordinance.

d. Applicant shall comply with all relevant provisions for a "tattoo shop" as specified by the Zoning Ordinance and the Commonwealth of Pennsylvania.

e. Architectural plans, if necessary, rendering and/or elevations shall be submitted to the City as required to demonstrate compliance with building code requirements.

f. Curbs and sidewalks adjacent to the Subject Property shall be maintained in proper condition and any necessary repairs shall be completed at the Subject Property owner's expense. Pedestrian sidewalks shall be adequately illuminated for safety and security and a minimum of 5 feet of sidewalk shall be maintained free of obstructions.

g. Any use of the public right of way shall be prohibited without the permission of the City Engineer.

h. A zoning permit shall be submitted for each existing or proposed sign on the Subject Property in accordance with the provisions specified by the City of Reading.

i. All site improvements and/or agreements that are necessary to comply with the requirements for off-street parking shall be resolved to the satisfaction of the Zoning Administrator prior to the issuance of a zoning permit for the permitted uses on the Subject Property.

j. Applicant shall comply with all relevant building and occupancy codes and ordinances as well as the plans and testimony submitted before the Zoning Board.

k. Applicant may not use, expand, alter or otherwise use the Subject Property inconsistently with the contents of this Decision without making application requesting further relief from the Zoning Board.

l. Failure to comply with any of these above-referenced conditions shall mean the immediate revocation of the relief granted herein.

The decision of this Board is by a vote of 4 to 0 .

**ZONING HEARING BOARD OF THE CITY
OF READING**

/s/ Philip Rabena

PHILIP RABENA, CHAIRMAN

/s/ Thomas Fox

THOMAS FOX

/s/ Jeffrey Gattone

JEFFREY GATTONE

/s/ Jared Barcz

JARED BARCZ